



General Assembly

February Session, 2004

***Raised Bill No. 5479***

LCO No. 1826

\* \_\_\_\_\_ HB05479FIN\_\_032904\_\_\_\_\_ \*

Referred to Committee on Finance, Revenue and Bonding

Introduced by:  
(FIN)

***AN ACT CLARIFYING PROVISIONS RELATED TO THE PROPERTY  
TAX EXEMPTION FOR MANUFACTURING MACHINERY AND  
EQUIPMENT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Subparagraph (A) of subdivision (72) of section 12-81 of  
2       the general statutes, as amended by section 53 of public act 03-6 of the  
3       June 30 special session, is repealed and the following is substituted in  
4       lieu thereof (*Effective from passage*):

5       (A) Effective for assessment years commencing on or after October  
6       1, 2002, new machinery and equipment, as defined in this subdivision,  
7       acquired after October 1, 1990, and newly-acquired machinery and  
8       equipment, as defined in this subdivision, acquired on or after July 1,  
9       1992, by the person claiming exemption under this subdivision,  
10      provided this exemption shall only be applicable in the five full  
11      assessment years following the assessment year in which such  
12      machinery or equipment is acquired, subject to the provisions of  
13      subparagraph (B) of this subdivision. Machinery and equipment  
14      acquired on or after July 1, 1996, and used in connection with  
15      biotechnology shall qualify for the exemption under this subsection.

16 For the purposes of this subdivision: (i) "Machinery" and "equipment"  
17 [mean] means tangible personal property which is installed in a  
18 manufacturing facility [,] and claimed on the owner's federal income  
19 tax return as either five-year property or seven-year property, as those  
20 terms are defined in Section 168(e) of the Internal Revenue Code of  
21 1986, or any subsequent corresponding internal revenue code of the  
22 United States, as from time to time amended, and the predominant use  
23 of which is for manufacturing, processing or fabricating; for research  
24 and development, including experimental or laboratory research and  
25 development, design or engineering directly related to manufacturing;  
26 for the significant servicing, overhauling or rebuilding of machinery  
27 and equipment for industrial use or the significant overhauling or  
28 rebuilding of other products on a factory basis; for measuring or  
29 testing or for metal finishing; or used in the production of motion  
30 pictures, video and sound recordings. "Machinery" means the basic  
31 machine itself, including all of its component parts and contrivances  
32 such as belts, pulleys, shafts, moving parts, operating structures and  
33 all equipment or devices used or required to control, regulate or  
34 operate the machinery, including, without limitation, computers and  
35 data processing equipment, together with all replacement and repair  
36 parts therefor, whether purchased separately or in conjunction with a  
37 complete machine, and regardless of whether the machine or  
38 component parts thereof are assembled by the taxpayer or another  
39 party. "Equipment" means any device separate from machinery but  
40 essential to a manufacturing, processing or fabricating process. (ii)  
41 "Manufacturing facility" means that portion of a plant, building or  
42 other real property improvement used for manufacturing, processing  
43 or fabricating, for research and development, including experimental  
44 or laboratory research and development, design or engineering  
45 directly related to manufacturing, for the significant servicing,  
46 overhauling or rebuilding of machinery and equipment for industrial  
47 use or the significant overhauling or rebuilding of other products on a  
48 factory basis, for measuring or testing or for metal finishing. (iii)  
49 "Manufacturing" means the activity of converting or conditioning

50 tangible personal property by changing the form, composition, quality  
 51 or character of the property for ultimate sale at retail or use in the  
 52 manufacturing of a product to be ultimately sold at retail. Changing  
 53 the quality of property shall include any substantial overhaul of the  
 54 property that results in a significantly greater service life than such  
 55 property would have had in the absence of such overhaul or with  
 56 significantly greater functionality within the original service life of the  
 57 property, beyond merely restoring the original functionality for the  
 58 balance of the original service life. (iv) "Fabricating" means to make,  
 59 build, create, produce or assemble components or tangible personal  
 60 property work in a new or different manner, but does not include the  
 61 presorting, sorting, coding, folding, stuffing or delivery of direct or  
 62 indirect mail distribution services. (v) "Processing" means the physical  
 63 application of the materials and labor in a manufacturing process  
 64 necessary to modify or change the characteristics of tangible personal  
 65 property. (vi) "Measuring or testing" includes both nondestructive and  
 66 destructive measuring or testing, and the alignment and calibration of  
 67 machinery, equipment and tools, in the furtherance of the  
 68 manufacturing, processing or fabricating of tangible personal property.  
 69 (vii) "Biotechnology" means the application of technologies, including  
 70 recombinant DNA techniques, biochemistry, molecular and cellular  
 71 biology, genetics and genetic engineering, biological cell fusion  
 72 techniques, and new bioprocesses, using living organisms, or parts of  
 73 organisms, to produce or modify products, to improve plants or  
 74 animals, to develop microorganisms for specific uses, to identify  
 75 targets for small molecule pharmaceutical development, or to  
 76 transform biological systems into useful processes and products.

77 Sec. 2. Subparagraph (B) of subdivision (72) of section 12-81 of the  
 78 general statutes is repealed and the following is substituted in lieu  
 79 thereof (*Effective from passage*):

80 (B) Any person who on October first in any year holds title to  
 81 machinery and equipment for which such person desires to claim the  
 82 exemption provided in this subdivision shall file with the assessor or

83 board of assessors in the municipality in which the machinery or  
84 equipment is located, on or before the first day of November in such  
85 year, a list of such machinery or equipment together with written  
86 application claiming such exemption on a form prescribed by the  
87 Secretary of the Office of Policy and Management. Such application  
88 shall include the taxpayer identification number assigned to the  
89 claimant by the Commissioner of Revenue Services and the federal  
90 employer identification number assigned to the claimant by the  
91 Secretary of the Treasury. If title to such equipment is held by a person  
92 other than the person claiming the exemption, the claimant shall  
93 include on such person's application information as to the portion of  
94 the total acquisition cost incurred by such person, and on or before the  
95 first day of November in such year, the person holding title to such  
96 machinery and equipment shall file a list of such machinery with the  
97 assessor of the municipality in which the manufacturing facility of the  
98 claimant is located. Such person shall include on the list information as  
99 to the portion of the total acquisition cost incurred by such person.  
100 Commercial or financial information in any application or list filed  
101 under this section shall not be open for public inspection, provided  
102 such information is given in confidence and is not available to the  
103 public from any other source. The provisions of this subdivision  
104 regarding the filing of lists and information shall not supersede the  
105 requirements to file tax lists under sections [12-42, 12-43, 12-57a and  
106 12-59] 12-41, 12-42 and 12-57a. In substantiation of such claim, the  
107 claimant and the person holding title to machinery and equipment for  
108 which exemption is claimed shall present to the assessor or board of  
109 assessors such supporting documentation as said secretary may  
110 require, including, but not limited to, invoices, bills of sale, contracts  
111 for lease and bills of lading and shall, upon request, present to the  
112 secretary or the secretary's designee a copy of each applicable federal  
113 income tax return and accompanying schedules. Failure to file such  
114 application in this manner and form within the time limit prescribed  
115 shall constitute a waiver of the right to such exemption for such  
116 assessment year, unless an extension of time is allowed pursuant to

117 section 12-81k. If title to exempt machinery is conveyed subsequent to  
 118 October first in any assessment year, entitlement to such exemption  
 119 shall terminate for the next assessment year and there shall be no pro  
 120 rata application of the exemption unless such machinery or equipment  
 121 continues to be leased by the manufacturer who claimed and was  
 122 approved for the exemption in the previous assessment year.  
 123 Machinery or equipment shall not be eligible for exemption upon  
 124 transfer from a seller to a related business or from a lessor to a lessee  
 125 except to the extent it would have been eligible for exemption by the  
 126 seller or the lessor, as the case may be. For the purposes of this  
 127 subdivision, "related business" means: (i) A corporation, limited  
 128 liability company, partnership, association or trust controlled by the  
 129 taxpayer; (ii) an individual, corporation, limited liability company,  
 130 partnership, association or trust that is in control of the taxpayer; (iii) a  
 131 corporation, limited liability company, partnership, association or trust  
 132 controlled by an individual, corporation, limited liability company,  
 133 partnership, association or trust that is in control of the taxpayer; or  
 134 (iv) a member of the same controlled group as the taxpayer. For  
 135 purposes of this subdivision, "control", with respect to a corporation,  
 136 means ownership, directly or indirectly, of stock possessing fifty per  
 137 cent or more of the total combined voting power of all classes of the  
 138 stock of such corporation entitled to vote. "Control", with respect to a  
 139 trust, means ownership, directly or indirectly, of fifty per cent or more  
 140 of the beneficial interest in the principal or income of such trust. The  
 141 ownership of stock in a corporation, of a capital or profits interest in a  
 142 partnership or association or of a beneficial interest in a trust shall be  
 143 determined in accordance with the rules for constructive ownership of  
 144 stock provided in Section 267(c) of the Internal Revenue Code of 1986,  
 145 or any subsequent corresponding internal revenue code of the United  
 146 States, as from time to time amended, other than paragraph (3) of said  
 147 Section 267(c).

This act shall take effect as follows:	
Section 1	<i>from passage</i>

Sec. 2	<i>from passage</i>
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***FIN***      *Joint Favorable*